

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3080 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VISHNUBHAI SOMABHAI PATEL

Versus

JOITABHAI M PATEL DECD. THRO' HEIRS JIVIBEN WD/O JOITABHAI&6

Appearance:

MR GIRISH D BHATT for Petitioner

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 18/09/96

ORAL JUDGEMENT

1. Heard Mr. G.D.Bhatt for the appellant and Mr. R.F.Patel for the respondents Nos. 1/1 to 1/7.
2. Notice. Mr. R.F.Patel waives service of notice for respondents Nos. 1/1 to 1/7.
3. Appeal admitted.
4. At the joint request of the learned counsel, this

appeal is taken up for final hearing today.

5. As a result of the negotiations between the parties, learned counsel jointly state that during the pendency of the suit, the present respondent had transferred the suit land to one Sureshbhai Hirabhai Patel, who was not joined as a party to the suit. Under the circumstances, there could not have been any effective determination of the mutual rights and obligations amongst the parties unless the said purchaser was a party to the suit. Under the circumstances, learned counsel for the parties by consent, make a joint request that the impugned judgment and decree be set aside, and the case remanded back to the trial court, to enable the present appellant-original plaintiff to make an application to the trial court to implead the said Sureshbhai Hirabhai Patel as a defendant to the suit.

6. Hence, by consent, the impugned judgment and decree are set aside and the case is remanded back to the trial court for the aforesaid purpose. As and when the said application is made, the Trial Court shall decide the same in accordance with law.

7. This appeal is accordingly disposed off, with no order as to costs.
